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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,407	01/23/2002	David A. Fertell	3361-011773	7264

7590 12/12/2007

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436 Seventh Avenue  
Pittsburgh, PA 15219

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 12/12/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10055407	1/23/02	FERTELL ET AL.	3361-011773

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**EXAMINER**

J. Bret Dennison

ART UNIT	PAPER
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2143

20071206

**DATE MAILED:**

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner for Patents**

The reply filed on 8/23/2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The Reply Brief filed 8/23/2007, is not a proper response to the Non-Final Rejection mailed 6/20/2007.

M.P.E.P 1207.05 states,

After reopening of prosecution, appellant must exercise one of the following options to avoid abandonment of the application:

- (A) file a reply under 37 CFR 1.111, if the Office action is non-final;
- (B) file a reply under 37 CFR 1.113, if the Office action is final; or
- (C) initiate a new appeal by filing a new notice of appeal under 37 CFR 41.31.

If appellant elects to continue prosecution and prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application. If, however, the appeal fees set forth in 37 CFR 41.20 have increased since they were previously paid, applicant must pay the difference between the increased fees and the amount previously paid. If appellant elects to initiate a new appeal by filing a notice of appeal, appellant must file a complete new brief in compliance with the 37 CFR 41.37 within two months from the filing of the new notice of appeal. See MPEP § 1204.01 for more information on reinstatement of an appeal.


See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
J. B. D.  
Patent Examiner  
Art Unit 2143

  
NATHAN FLYNN  
SUPERVISORY PATENT EXAMINER